

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:21-cv-00068-MR**

**JONATHAN ANTHONY LEE TORRES, )**

**Plaintiff, )**

**vs. )**

**TODD ISHEE, et al., )**

**Defendants. )**

**ORDER**

**THIS MATTER** is before the Court on the Plaintiff's Motions to Compel Discovery and for Sanctions. [Docs. 72, 110].

The Plaintiff Jonathan Anthony Lee Torres filed this civil rights action addressing incidents that allegedly occurred in the Rehabilitative and Diversion Unit ("RDU") at the Marion Correctional Institution.<sup>1</sup> The Plaintiff's Second Amended Complaint passed initial review on claims including the use of excessive force and North Carolina assault and battery. The Defendants have filed a Motion for Summary Judgment, which is pending. [Doc. 81].

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<sup>1</sup> The Plaintiff is no longer incarcerated.

The Plaintiff has filed several Motions seeking to compel discovery and requesting sanctions in this case, portion of two of which remain pending and are addressed herein. [Docs. 72, 110]. In both of these Motions, the Plaintiff has sought all video depicting the alleged use of force incident, and color photographs that were taken after that incident. The Court previously granted the Motion to Compel and reserved the Plaintiff's request for sanctions. [See Doc. 105]. The Defendants have repeatedly asserted that the Plaintiff has been provided with all existing video and photographs.<sup>2</sup> [See Doc. 114].

The Plaintiff again recently asserted that the Defendants failed to produce the relevant video files depicting the uses of force at issue in this case. [Doc. 128]. The Court noted discrepancies between the video files that were provided to the Court, and the descriptions of the videos provided by the Plaintiff and included in the NCDPS Use of Force Report. [Doc. 131; see Doc. 83-13 at 11; Doc. 120 at 1-2]. Accordingly, the Court granted the Motion and ordered defense counsel<sup>3</sup> to investigate these discrepancies and to inform the Court whether additional relevant video files exist and, if so, to

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<sup>2</sup> Color photographs have been produced and filed with the Court.

<sup>3</sup> There have been numerous substitutions of counsel in this case. [See Docs. 44, 63, 100, 123].

file them with the Court. [Doc. 131]. On August 26, 2024, the Defendants filed a Status Report explaining that “Counsel’s office has conferred with officials at Marion CI and confirmed that there are no additional videos.”<sup>4</sup> [Doc. 132].

The Court is satisfied that defense counsel has now produced all such existing records. The Court has considered the relevant factors and it concludes that the Defendants have not acted in bad faith and that the matter can be effectively addressed in pretrial motions, should the case proceed to trial, without imposing more drastic sanctions. [See Doc. 58 (setting forth the relevant legal standards)]. The Plaintiff’s pending Motions to Compel are therefore denied as moot, and the Plaintiff’s requests for sanctions are denied without prejudice to address these matters in pretrial motions, should this case proceed to trial.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Plaintiff’s Motions to Compel Discovery and for Sanctions [Docs. 72, 110] are **DENIED WITHOUT PREJUDICE**.

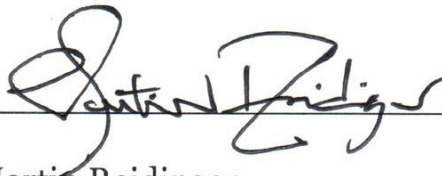
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<sup>4</sup> These matters can be addressed without further response from the Plaintiff.

The Clerk is respectfully instructed to update the Court's record to correct the name of Defendant "Benjamin Coffee" to "Benjamin Coffey" in the Court's record.

**IT IS SO ORDERED.**

Signed: September 2, 2024

  
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Martin Reidinger  
Chief United States District Judge

